APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,046	10/01/2003	Courtney Konopka	81053 7114	6653

22242	7590	09/14/2005

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EXAMINER
CHANKONG, DOHM

ART UNIT	PAPER NUMBER
2152	

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>28 July 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/6/05</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1>   This action is in response to Applicant's remarks. Claims 1-20 are presented for

further examination.

2>   This is a non-final rejection.

Response to Arguments

3>   Applicant's arguments, with respect to the rejection(s) of claim(s) 1-20 have been fully

considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon

further consideration, a new ground(s) of rejection is made in view of new prior art

references.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form

the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4>   Claims 1, 4, 5-7, 16, 19 and 20 are rejected under 35 U.S.C § 102(e) as being anticipated

by Wing et al, U.S Patent Publication No. 2004|0236843 ["Wing"].

5>   Wing is directed towards a remote diagnostic system that enables client computers to download scripts or diagnostic commands from a central repository. A first script or command is downloaded to the client that performs an analysis of the client system. Based on the information obtained by this first step helps define the appropriate additional scripts or commands to be further downloaded to the client device. Remote maintenance and diagnostics are thus provided.

6>   As to claim 1, Wing discloses a method for use in remotely diagnosing an electronic device, comprising:

initiating a diagnostic analysis of an electronic device [0081, 0083, 0084, 0087, 0101];

identifying the electronic device [0080, 0081, 0101, 0103, 0155];

receiving a plurality of scripts for diagnosing the electronic device communicated over a distributed network [0081, 0082, 0085, 0089, 0098, 0158 : Wing discloses several different embodiments of this limitation including a web page with a plurality of scripts or "one or more test modules or diagnostic tools...the diagnostic tools may themselves comprise one or more scripts"];

remotely initiating a first diagnostic instruction with at least one of the plurality of scripts [0007, 0012, 103, claims 49 and 57 where : the first instruction involves detecting if the detected devices are operating properly];

receiving a response based on the first diagnostic instruction [0108, 0111];

determining a second diagnostic instruction based on the response with at least one of

the plurality of scripts [0082, 0111, 0147, 0158]; and

remotely initiating the second diagnostic instruction with at least one of the plurality

of scripts [0007, 0012, claims 49 and 57, 0098, 0158 where: the second instruction involves

collecting the performance data of the properly operating detected devices].

7>   As to claim 4, Wing discloses remotely receiving a diagnostic controller over the

distributed network prior to the identifying the electronic device [0009 : "client application"].

8>   As to claim 5, Wing discloses electronically accessing the electronic device and

receiving an identity of the electronic device from the electronic device [0085, 0087, 0101

where Wing discloses the client computer is characterized by the user, monitor, ports and

other hardware of the client computer. This analysis of the client computer's inventory

comprise the "identity" of the computer within Wing's system].

9>   As to claim 6, Wing discloses determining if an identity of the electronic device can

be directly determined [0101]; and

requesting the identity of the electronic device from a user when the identity cannot

be directly determined [0102, 0105].

10>   As to claim 7, Wing discloses :

receiving from over the distributed network an initiation for the diagnosis of the

electronic device [0009];

   receiving from over the distributed network the identification of the electronic device [0101, 0102];

   determining a plurality of scripts to implement the diagnosis of the electronic device [0103 where : the diagnostics tools runs scripts based on the devices determined by Wing's inventory module]; and

   communicating the plurality of scripts over the distributed network [0082, 0103 where : Wing's diagnostic tools comprises one or more scripts].

11>   As to claim 16, as it does not teach or further define over the previously claimed limitations, it is rejected for at least the same reasons set forth above for claim 1.

12>   As to claim 19, Wing discloses at least one of the plurality of scripts initiates a download over the distributed network to the electronic device [0106, 0148].

13>   As to claim 20, as it does not teach or further define over the previously claimed limitations, it is rejected for at least the same reasons set forth above for claim 4.

Claim Rejections - 35 USC § 103

   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

   (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art

are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

14>   Claims 2, 8 and 17 are rejected under 35 U.S.C § 103(a) as being unpatentable over

Wing, in view of Johnson, II et al, U.S Patent No. 6.397.245 ["Johnson"].

15>   As to claims 2 and 17, Wing does not explicitly disclose receiving a web page having

the plurality of scripts.

16>   Johnson is directed towards evaluating a computer over a computer network. One

way that Johnson achieves this functionality is through the use of scripts. Johnson discloses

it is well known in the art to receive at least one web page having a plurality of scripts

[column 6 «lines 5-14» | column 8 «lines 43-58»]. It would have been obvious to one of

ordinary skill in the art to incorporate Johnson's web page script functionality into Wing's

remote diagnostic systems to enable users to easily select the appropriate script that needs to

be run on his computer. One would have been further motivated to provide such an

implementation to enhance functionality already suggested and present within Wing's

system [0011, 0079, 0216 where Wing discloses utilizing active server pages as well as a web

page "having" scripts by linking to them and enabling a user to select the scripts by clicking

on the link].

17>   As claim 8 does not limit or further define over the previously claimed limitations, it

is rejected for at least the same reasons stated above for claim 2.

18>   Claim 3 and 18 are rejected under 35 U.S.C § 103(a) as being unpatentable over Wing

in view of an Official Notice.

19>   As to claims 3 and 18, Wing does not explicitly disclose decrypting at least a portion

of the plurality of the scripts prior to the initiating the first diagnostic instruction. However,

it should be noted that principles of cryptography for network data, and specifically the

encryption and decryption of data, is well known and expected in the art for providing secure

communications over an insecure medium. As such, the step of decrypting an encrypted

communications between network devices does not constitute a patentable or inventive step

over what is well known in the art. Scripts passed between a server and client correspond to

data or information that is encrypted when transmitted through the network. Such is the

case, Official Notice is taken that it would have been obvious to one of ordinary skill in the

art to incorporate such security functionality into Wing as encrypting and the subsequent

and necessary decrypting of network data including scripts is well known and expected in the

art.

20>   Claims 9-15 are rejected under 35 U.S.C § 103(a) as being unpatentable over Wing, in

view of Sewell et al, U.S Patent Publication No. 2002|0165952 ["Sewell"].

21>   As to claim 9, Wing does not expressly disclose generating the plurality of scripts for

diagnosing the electronic device based on an identity of the electronic device.

22>   Sewell is directed towards a system for remote management of network devices

through a central repository of diagnostic scripts. Sewell discloses generating a plurality of

scripts for diagnosing electronic devices based on an identity of the electronic device [0065,

0066]. It would have been obvious to one of ordinary skill in the art to incorporate Sewell's

script generation functionality into Wing's remote diagnostics systems to enable

customization of scripts based on received diagnostic data. Such an implementation would

provide a distinct improvement to Wing's system that currently collects diagnostic data in a

database [0074] as well as using scripts to test detected devices [0103] but does not disclose

generating specific scripts based on them. Sewell provides such a teaching.

23>   As to claim 10, Wing discloses the plurality of scripts provide polling of the electronic

device [0103].

24>   As to claim 11, Wing discloses the plurality of scripts initiating remote maintenance

of the electronic device [0103, 0104, 0106].

25>   As to claim 12, Wing discloses a system for remotely diagnosing electronic devices,

comprising:

a remote diagnostic controller coupled with the distributed network and with an

electronic device to be diagnosed, wherein the diagnostic controller is configured to receive at

least one script and implement the at least one script such that the remote diagnostic

controller forwards a first instruction to the electronic device to be performed by the

electronic device, the remote diagnostic controller is further configured to receive a first reply

from the electronic device and to forward a second and|or subsequent instructions to the

electronic device based on the first reply and|or previous replies [0009, 0081, 0083, 0085, 0089

where : Wing discloses a client application that is enabled to execute scripts. The scripts can

send instructions to trigger execution of program code already resident in the client

computer. Scripts are received and executed based on the results of previously executed

scripts].

        Wing does not disclose a script generator.

26>   Sewell discloses a script generator coupled with a distributed network, wherein the

script generator is configured to compile at least one script and forward that at least one

script over the distributed network [0064, 0065, 0066]. It would have been obvious to one of

ordinary skill in the art to incorporate Sewell's script generation functionality into Wing's

remote diagnostics systems to enable customization of scripts based on received diagnostic

data. Such an implementation would provide a distinct improvement to Wing's system that

currently collects diagnostic data in a database [0074] as well as using scripts to test detected

devices [0103] but does not disclose generating specific scripts based on them. Sewell provides

such a teaching.

27>   As to claim 13, Wing discloses the diagnostic controller maintained within a host

computer, wherein the host computer provides processing capabilities for the diagnostic

controller in determining the second instruction [abstract | 0009, 0078, 0083 where : Wing

discloses downloading of the client application to the client computer, the client application

responsible for providing processing of the scripts and takes part, with the server application,

in determining the second instruction].

28>   As to claim 14, Wing does not explicitly disclose the diagnostic controller maintained

within the electronic device.

29>   Sewell discloses a "diagnostic processor" [analogous to Wing's client application and

claimed diagnostic controller] that can be maintained either in computer host system used to

control diagnostic devices or can be incorporated within the diagnostic devices themselves

[0059]. It would have been obvious to one of ordinary skill in the art to implement Sewell's

teachings and incorporate Wing's client application in either the host system or the

controlled device. Sewell suggests benefits from such an implement including "commonality

of test names across all item models within a given item type, ensuring that only the most

up-to-date scripts are being used on analyzers by removing the issues around manually

updating analyzer software and scripts data and giving consistent interfaces to users

independent of the analyzer is being used".

30>   As to claim 15, Wing does disclose incorporating at least one script within a web page,

and the web page is forwarded over the distributed network [0103] but doesn't disclose a

script generator.

31>   Sewell discloses a script generator that incorporates the script within a page. As mentioned in the previous claim rejections, it would have been obvious to one of ordinary skill in the art to incorporate Sewell's script generation functionality into Wing's remote diagnostics systems to enable customization of scripts based on received diagnostic data. Such an implementation would provide a distinct improvement to Wing's system that currently collects diagnostic data in a database [0074] as well as using scripts to test detected devices [0103] but does not disclose generating specific scripts based on them. Sewell provides such a teaching.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S Patent No. 6.170.065 to Kobata et al;

U.S Patent No. 6.188.400 to House et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is (571)272-3942. The examiner can normally be reached on 8:30AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information

for unpublished applications is available through Private PAIR only. For more information

about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on

access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-

9197 (toll-free).

Dung C. Dinh
Primary Examiner

DC